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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,365	04/16/2002	Adeyinka Adedeji	08CN8849-4	4572

23413 7590 08/22/2003

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EXAMINER
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SHORT, PATRICIA A

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 08/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/063365	Applicant(s)	Adeleji
Examiner	Short	Group Art Unit	1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- Responsive to communication(s) filed on June 11, 2003
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- Claim(s) 1-36 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) 19-36 is/are allowed.
- Claim(s) 1-18 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 12-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO '865. The rejection is applied as in the previous Office Action. Applicant argues that the reference does not anticipate the claims because it does not disclose the polyphenylene ether intrinsic viscosity and dendritic polymer melt viscosity. As polyphenylene ether typically has an intrinsic viscosity of greater than 0.4 dl/g (specification at page 1, paragraph 0002), from the reference disclosure, one of ordinary skill in the art would envision compositions containing a polyphenylene ether having an intrinsic viscosity of more than 0.2 dl/g and the dendritic polymer or it would have been obvious to combine a polyphenylene ether having an intrinsic viscosity of more than 0.2 dl/g with the dendritic polymer. With the exception of the melt viscosity property recited in the claims, the dendritic polymers of the reference meet the claim limitations. Further, as they have the same function as applicant's dendritic polymer, i.e. they improve the fluidity of polyphenylene ether, the dendritic polymers of

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the reference are substantially the same as applicant's. Where the reference product is substantially the same as the claimed product, the burden is upon applicant to prove that the prior art product does not necessarily or inherently posses the claimed characteristics. See *In re Best* 195 USPQ 430 (CCPA 1977).

Claims 1-18 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mhetar. The rejection is applied as in the previous Office Action. Applicant argues that the reference does not anticipate the claims because it does not disclose the polyphenylene ether intrinsic viscosity and dendritic polymer melt viscosity. As polyphenylene ether typically has an intrinsic viscosity of greater than 0.4 dl/g (specification at page 1, paragraph 0002), from the reference disclosure, one of ordinary skill in the art would envision compositions containing a polyphenylene ether having an intrinsic viscosity of more than 0.2 dl/g and the dendritic polymer or it would have been obvious to combine a polyphenylene ether having an intrinsic viscosity of more than 0.2 dl/g with the dendritic polymer. With the exception of the melt viscosity property recited in the claims, the dendritic polymer of the reference meet the claim limitations. Further, as it has the same function as applicant's dendritic polymer, i.e. it improves the fluidity of polyphenylene ether, the dendritic polymer of the reference is substantially the same as applicant's. Where the reference product is substantially the same as the claimed product, the burden is upon applicant to prove that the prior art product does not necessarily or inherently posses the claimed characteristics. See *In re Best* 195 USPQ 430 (CCPA 1977).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

P. Short

August 14, 2003

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**PATRICIA A. SHORT  
PRIMARY EXAMINER**

